

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

STEPHEN PENROSE, JAMES
THOMAS, JOSEPH GUARDINO, and
DANIEL POPE on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

BUFFALO TRACE DISTILLERY, INC.,
OLD CHARTER DISTILLERY CO., and
SAZERAC COMPANY, INC.

Defendants.

CASE NO. 4:17-CV-00294

**DECLARATION OF MICHELLE
DOOLIN IN SUPPORT OF
DEFENDANTS' MOTION TO
TRANSFER THIS ACTION TO THE
WESTERN DISTRICT OF KENTUCKY**

I, Michelle Doolin, declare:

1. I am an attorney licensed to practice law in the State of California. I am a partner with the law firm, Cooley LLP, counsel for defendants Buffalo Trace Distillery, Inc., Old Charter Distillery Co., and Sazerac Company, Inc. ("Defendants") in Case No. 1:16-cv-08986-LLS filed in the United States District Court for the Southern District of New York. I will be applying pro hac vice to appear as counsel for Defendants in this action. I submit this declaration in support of Defendants' Motion to Transfer this Action to the Western District of Kentucky. As an attorney for Defendants, I have personal knowledge of the facts set forth in this declaration, and if called to testify, I could and would testify competently thereto.

2. On October 13, 2016, Plaintiffs' counsel, Bursor & Fisher, P.A., sent a letter to Defendants on behalf of New York resident Nicholas Parker and Missouri resident Stephen Penrose, purporting to assert a nationwide class of purchasers of Old Charter. The letter was allegedly sent pursuant to, *inter alia*, New York General Business Law § 349, *et seq.* and the

Missouri Merchandising and Practices Act.

3. On November 18, 2016, Plaintiffs' counsel filed suit against Defendants in the United States District Court for the Southern District of New York on behalf of only Nicholas Parker (Case No. 1:16-cv-08986-LLS). Attached as **Exhibit A** is a true and correct copy of the putative class action complaint filed in the United States District Court for the Southern District of New York.

4. On or around January 4, 2017, Plaintiffs' counsel advised that they would not be amending the New York complaint at that time.

5. Defendants moved to dismiss the New York action on January 12, 2017. On January 26, 2017, before responding to Defendants' motion to dismiss, Plaintiff Parker filed a notice of voluntary dismissal of his New York action without prejudice. Attached as **Exhibit B** is a true and correct copy of the docket for the New York action, Southern District of New York Case No. 1:16-cv-08986-LLS, as of April 4, 2017.

6. At my direction, my office created a redline comparing the complaint filed in this action to the complaint filed in the Southern District of New York. A true and correct copy of this redline is attached as **Exhibit C**.

I declare under the penalty of perjury that the foregoing is true and correct. Executed on April 5, 2017 in San Diego, California.

By: Michael C. Davis